IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 1747(S/S) 2005

Naresh Chandra Agarwal S/o Sri Roop Chand,
Resident of I.R.I. Colony, Roorkee,
District Haridwar. ---- Petitioner

Versus

1. State of Uttarakhand through Secretary,
   Irrigation Department, Uttarakhand, Dehradun,
2. Chief Engineer, Material Testing Circle,
   Irrigation Research Institute, Roorkee,
   District Haridwar.
3. Superintending Engineer, Material Testing Circle,
   Irrigation Research Institute Roorkee, Haridwar,
4. Executive Engineer, Administrative Division,
   Irrigation Research Institute, Roorkee,
   District Haridwar. --- Respondents.

Sri Lok Pal Singh, learned counsel for the petitioner.
Sri N.P. Sah, learned Standing Counsel for the State /respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Lok Pal Singh, learned counsel for the petitioner and Sri N.P. Sah, learned Standing Counsel for the State/ respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

a) Issue a writ, order or direction in the nature of mandamus commanding/ directing the respondents to pay the balance amount of salary Rs. 11,501/- for the period 23.03.2001 to 31.12.2004 for the post of Head Clerk to the petitioner,

b) Issue a writ, order or a direction in the nature of mandamus commanding/directing the respondents to

pay the retiral benefit, pension etc. for the post of Head Clerk,

c) Issue any other relief, which this Hon'ble Court may deem fit and proper in the circumstances of the case be passed in favour of the petitioner,

d) Cost of the petition be awarded in favour of the petitioner.

The Superintending Engineer (Establishment) in the office of Chief Engineer & Head of the Department, Irrigation Department, Uttarakhand, Dehradun vide its order dated 26th October 2004, directed that the excess salary paid to the petitioner, which he had received consequent upon the promotion, be recovered from him.

Briefly stated that on 25th May 1964, the petitioner was appointed as Clerk with the respondent's establishment. Vide order dated 23rd March 2001, the Superintending Engineer passed an order for promotion of certain employees, including the petitioner, on the post of Head Clerk, however the said order was given effect to vide order dated 19th May 2001 passed by the Chief Engineer (Establishment). Again on 31st August 2001, the petitioner was handed over charge on the post of Head Clerk separately. But vide order dated 26.10.2004, the promotion order of the petitioner was cancelled by the respondents. The petitioner has now been retired from his services w.e.f. 31st December 2004.

The petitioner, by means of this writ petition, has challenged the order of recovery of the amount, which he had received in excess because of joining on the promotional post. The petitioner has not challenged the order for recovery of the

amount from his salary at the relevant time when the order was passed to that effect, but he has filed this writ petition after the recovery has been made. In the circumstances, the writ petition lacks merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(M.M. Ghilidyal, J.)

March 29, 2007:
NCM: